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Interim Report to the Legislature

Massachusetts Sentencing Commission

September 1995

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Massachusetts Sentencing Commission
Interim Report to the Legislature

I. Introduction

The Massachusetts Sentencing Commission was established by the truth-in-sentencing law (Chapter 432 of the Acts of 1993), which became effective in April, 1994. The commission consists of fifteen members, including three judges, three prosecutors, and three defense counsel, along with representatives from the Executive Office of Public Safety, the Sheriffs' Association, the Department of Correction, the Parole Board, the Office of the Commissioner of Probation, and the Victim Witness Assistance Board. This membership group provides broader representation of the interests of the criminal justice community and victims than many other sentencing commissions in the nation. The commission members were appointed in the spring of 1994 and held their first organizational meeting in June, 1994. An executive director and a research director were hired in December, 1994. The Honorable Robert A. Mulligan, Chief Justice of the Superior Court, serves as Chair. (A list of the Massachusetts Sentencing Commission members is presented in Attachment A.)

The purpose of this interim report is to provide a status report on progress to date; to summarize the issues yet to be addressed; and, to establish a timetable for the submission of the commission reports to the Legislature.

II. Mission

The mission of the Sentencing Commission is to promote truth in sentencing by formulating uniform sentencing policies and developing systematic sentencing guidelines for the courts of the Commonwealth. The commission has adopted a comprehensive approach in developing these sentencing policies and guidelines with respect to the range of offenses covered and the scope of sanctions included. A critical aspect of this mission is to integrate intermediate sanctions with the sentencing guidelines.

III. Guiding Principles

The commission has articulated certain principles to guide its deliberations in the development of sentencing policies and guidelines and the formulation of its report on intermediate sanctions. In formulating these guiding principles and otherwise setting a direction for its work, the commission has reviewed the experiences with sentencing guidelines in other jurisdictions, sought guidance from national experts, and participated in national conferences on sentencing guidelines and intermediate sanctions. One significant set of guiding principles

relates to the commission's perspective on the purpose of sentencing. A consistent perspective on the purpose of sentencing will provide an integrating frame of reference for many of the decisions relating to guidelines development.

Sentencing Purpose

Over the years, there have been several different sentencing purposes which have emerged as dominant at one period or another. These include punishment, rehabilitation, deterrence, incapacitation, and retribution. Specifying the primary purpose of sentencing has important implications for the development of sentencing guidelines. For example, rehabilitation is often linked to indeterminate sentencing policies, which allow the offender to be released at the optimal time in the rehabilitative process, rather than at a specified time set by the sentence itself.

Taking its direction from the truth in sentencing statute, which directs the commission to recommend sentencing policies and practices which "punish the offender justly," the commission has established **just punishment** as a central purpose of sentencing. Just punishment should be proportional to the gravity of the offense, taking into account the harm done to the victim or to society and the culpability of the offender, along with the seriousness of the offender's criminal history. By emphasizing punishment as the primary purpose of sentencing, the commission does not dismiss the importance of other purposes such as deterrence, rehabilitation, or incapacitation. For example, rehabilitation programs may be important in the correctional setting, and, in fact, the statute provides some incentive for participation in such programs by making available limited earned good time and the possibility of parole.

Prescriptive Approach to Guidelines Development

In adopting a prescriptive approach to guidelines development, the commission has articulated certain values associated with sentencing, such as just punishment as a central purpose of sentencing, and is formulating the sentencing guidelines to achieve these values. That is, the sentencing guidelines will not be structured in such a manner as to merely reflect existing sentencing practices or to replicate current time served for various offenses. While the commission will conduct detailed empirical analyses on existing sentencing patterns and time currently served, the data so derived will be used to inform the guidelines development process, not to place constraints on it.

Comprehensive Approach

The commission has adopted a comprehensive, system-oriented approach in developing sentencing guidelines. This applies to the range of offenses to be encompassed under the guidelines, as well as to the range of sanctions, including intermediate sanctions, to be incorporated in the guidelines. The system-oriented approach also implies that the commission will formulate policies and make decisions in the best interests of the criminal justice system, and, ultimately in the best interests of society as a whole. That is, while it is important for commission members to articulate the perspectives of the constituencies they represent in commission deliberations, it is also important to balance those particular perspectives with the broader goals and considerations of the justice system in order to best serve the public interest.

Prison Capacity

The commission recognizes that prison beds are a scarce and costly resource. Taking direction from the truth in sentencing statute, which directs the commission to "ration correctional capacity," to "afford sufficient correctional capacity to incarcerate violent offenders," and to "prevent the prison population in the commonwealth from exceeding the capacity of the prisons," the commission will take into account existing and anticipated correctional beds. Correctional capacity will be one parameter for the commission's deliberations on the length of sentencing ranges.

Intermediate Sanctions

The truth in sentencing statute emphasizes intermediate sanctions as a crucial component of the sentencing guidelines. Accordingly, the commission has been guided by the principle of integrating intermediate sanctions into the sentencing guidelines in its work on developing the sentencing guidelines and formulating its recommendations to the Legislature on intermediate sanctions.

Neutrality of Guidelines

In line with the direction of the truth in sentencing law, the commission is taking steps to ensure that the sentencing guidelines are neutral with respect to the race, sex, national origin, creed, religion, and socio-economic status of offenders.

Empirical Approach

The truth in sentencing law also directs that the process of developing the sentencing guidelines and formulating the intermediate sanction recommendations be informed by empirical data. In line with this principle, the commission has implemented a program of empirical research to generate data on present sentencing practices and time currently being served, and to develop simulation models to project correctional populations under existing sentencing practices and under the proposed sentencing guidelines. The research information will be used to help guide and inform the deliberations of the commission. It will not be used as a basis for the commission to structure the new sentencing guidelines merely to emulate existing sentencing practices or replicate current length of time served.

IV. Major Initiatives

The commission has established a committee structure to address the mandates of chapter 432. While the commission has typically met once a month - with the exception of two meetings in September, 1994, and June, 1995, and two full-day sessions in August, 1995 - the committees have often met two or three times during a month between commission meetings. The main committees are: Outreach and Education; Research; Legislation; and, Intermediate Sanctions. A list of the meetings of the commission and these committees is presented in attachment F.

The committee structure provides a framework for summarizing the work of the commission to date and for identifying the issues yet to be addressed.

Outreach and Education

In developing sentencing policies and guidelines and in preparing its report on intermediate sanctions, the commission is committed to an open process. Experience in other jurisdictions has indicated that the nature of the process of developing sentencing guidelines is a critical factor in the ultimate success of the enterprise. Generally, the more open the process, the more successful the guidelines development effort. Accordingly, the commission has worked towards establishing a process that will encourage as much input as possible from all interested parties. It is anticipated that there will be divergent points of view on some key sentencing issues. Therefore, it is important that all interested parties are afforded the opportunity to express their views so that decisions will be fully informed and the credibility of the process will be maintained.

As a first step in eliciting input for sentencing guidelines development and intermediate sanctions recommendations, commission members conducted a series of six focus groups with representatives of victims' organizations at various locations in the Commonwealth during November, 1994. Approximately 75 victims' organizations were invited to send representatives to these focus group meetings. The victims' insights on sentencing issues proved to be quite valuable for the deliberations of the commission . The notes of these focus groups have been compiled into a 50-page document, with a summary highlighting the major concerns and recommendations of the victim representatives. Commission members have each received a copy of this document.

Another series of 21 focus group sessions was conducted between April and June, 1995, with various constituency groups within and beyond the criminal justice community. For example, separate focus groups for defense counsel and for prosecutors were held in Boston, Springfield, Worcester, Lowell, and New Bedford. Other focus group sessions were conducted by commission members with such organizations as the Chiefs of Police Association, the Judges' Conference, the Sheriffs' Association, the Department of Correction, the Parole Board and Parole staff, the Chief Probation Officers Association, the Trial Court Domestic Violence Working Group, Inmate Legal Services, the Council for Public Justice, the Crime and Justice Foundation, and the Massachusetts Association of Sentencing Services. Many valuable insights emerged from these focus groups. The notes from most of these sessions have already been compiled and reviewed by commission members. They have proven to be quite valuable for commission deliberations.

In addition to these focus group meetings, commission members have made presentations on commission initiatives at Westfield State College (4/4/95), the Victim Rights Conference in Boston (4/25), the International Association of Residential and Community Alternatives (IARCA) Conference at Salve Regina College (6/13), the Justice George Lewis Ruffin Society at Northeastern University (6/20), and the National Conference of Sentencing Guidelines Commissions in Boston (7/24-25).

Finally, public hearings on the sentencing guidelines and intermediate sanctions are planned for the near future, in order to elicit additional input as the process of developing guidelines and preparing intermediate sanction recommendations progresses.

The principle of ensuring an open process by providing a forum for constituencies to be heard is viewed as critical to the success of the commission's work on formulating sentencing guidelines and reporting on intermediate sanctions.

Research

The truth in sentencing legislation mandates that a comprehensive research effort be undertaken in conjunction with the development of the sentencing guidelines. This means that the commission's decisions and policies will be informed by empirical data within the framework of the prescriptive approach described above.

The research challenges are quite formidable. For example, the study of existing sentencing practices and time currently being served requires ground-breaking research utilizing and integrating diverse databases maintained by the Office of the Commissioner of Probation, the Department of Correction, and Sheriffs' Departments. This research enterprise is presently underway with excellent cooperation and support from all the relevant criminal justice agencies. The Criminal History Systems Board has been particularly helpful in providing computing resources and technical assistance to support the research efforts of the commission.

The commission has developed a method to analyze the court disposition data in the automated files of the Office of the Commissioner of Probation. This effort has provided, for the first time, the capability to systematically analyze the rich disposition data in this voluminous database of 7.5 million records. An example of the type of statistical reporting on sentencing practices that is now available is presented in the table in Attachment D. This table provides some preliminary statistics on the various kinds of dispositions imposed for convictions of Assault and Battery by means of a Dangerous Weapon during the three-month period of April-June, 1994.

For example, the preliminary statistics indicate that, of the 1,094 convictions for Assault and Battery by means of a Dangerous Weapon, 95 (9%) were sentenced to the Department of Correction; 206 (19%) were sentenced to Houses of Correction; and, 207 (19%) received a split sentence to either the Department of Correction or a House of Correction, which entails a short period of incarceration followed by a longer period of probation supervision. Thus, somewhat under half of the convictions (46%) received a sentence of at least some incarceration, and somewhat over half (54%) received a non-incarcerative sentence - typically probation (45%).

The Department of Correction and the Sheriffs' Association have worked closely with the commission to provide systematic data on time currently being served for various offenses. An example of the time served data for offenders incarcerated for Assault and Battery by means of a Dangerous Weapon and released during 1992 and 1993 is also presented in Attachment D. These preliminary statistics indicate that the average time served by those sentenced to the Department of Correction for Assault and Battery by means of a Dangerous Weapon was 33.9

months, while the average time served for their counterparts sentenced to Houses of Correction was 6.8 months.

These preliminary figures on existing sentencing practices and time currently being served are presented as an illustration of the type of data that are being compiled as a frame of reference for developing sentencing guidelines and reporting on intermediate sanctions.

The commission has also been working with the Department of Correction and consultants from the National Council on Crime and Delinquency on the development of prison population projections utilizing some sophisticated simulation modeling techniques. The aim is to be able to project the prison population under existing sentencing practices and to project the impact of proposed guidelines on the correctional population. In this way, the commission can study the impact of different sentencing schemes and take prison capacity into account in developing its sentencing guidelines.

Legislation

The focus of the Legislation Committee has been on the development of the sentencing guidelines, which is at the heart of the mission of the Sentencing Commission. Substantial progress has been made in this area. The Legislation Committee has articulated a set of values to guide the process of guideline development and formulated a conceptual model as a framework for the guidelines.

Conceptual Model. The commission has reviewed several guideline models, including the mathematical model presently in use in the Massachusetts Superior Courts, the grid-type models used in such states as Minnesota, Washington, Oregon, and North Carolina, and the more intricate model implemented by the U.S. Sentencing Commission. After extensive research and discussion, the commission decided to adopt a grid-type approach as the conceptual model for sentencing guidelines.

Offense Seriousness. The commission is presently in the process of ranking offenses by seriousness. Over 4,000 specific offenses have been identified for ranking. This is a formidable enterprise, not simply because of the sheer volume of the offenses to be ranked, but also because Massachusetts relies much more heavily on the common law in defining crimes than most other states do. Accordingly, Massachusetts tends to have many broadly defined crimes that encompass such a wide range of behavior that it makes it difficult to rank them into a single category on an offense seriousness scale. In contrast, most other states base their crime definitions on the model penal code, which provides for a "staircasing" of offenses according to seriousness. For example, Massachusetts has the broadly defined crime of Assault and Battery

by means of a Dangerous Weapon, while the typical penal code state may staircase this offense into three or more specific categories such as Assault and Battery, first degree; Assault and Battery, second degree; Assault and Battery, third degree, etc. This is a difference that facilitates the ranking of crimes in the model penal code states, but poses some challenging problems for ranking crimes in Massachusetts.

In line with the prescriptive approach described above, the commission has articulated certain values regarding the process of ranking and classifying offenses according to seriousness. First, the commission has made a distinction between policy-level and case-level considerations in ranking the seriousness of offenses. Policy level considerations refer to general issues associated with the behavior and intent of the offender - e.g., injury to victim, vulnerability of victim, intent of offender - while case level considerations refer to more specific aggravating or mitigating factors that would affect sentencing in an individual case. The commission has determined to rely more heavily on **policy level considerations** in ranking and classifying offenses. Further articulation of the values relating to injury to victim, vulnerability of victim, and culpability of the offender follows.

Degree of Harm to Victim. Three dimensions of the degree of harm to the victim were considered in ranking crimes by seriousness.

(1) Degree of physical harm. A very significant dimension in ranking the seriousness of the offense is the degree of physical harm to the victim.

(2) Degree of risk of physical harm. There are some offenses in which, in the typical case, no physical harm actually occurs, but the risk of such harm can be quite significant - e.g., armed robbery.

(3) Degree of psychological harm. In some cases, the degree of physical harm may not be significant, but the psychological effects may be very serious and long-term.

Vulnerability of Victim. For some offenses, the status or vulnerability of the victim is a significant factor in ranking offense seriousness - e.g., offenses against children, elderly, mentally or physically handicapped, etc.

Culpability of Offender. The culpability or blameworthiness of the offender is an important consideration in classifying offense seriousness. A key dimension here is the intent of the offender. Certain offenses are characterized by careful planning and premeditation, while others are more spontaneous or "crimes of passion." This dimension was also important in ranking offenses.

In addition to the above policy-level considerations in ranking offenses, the commission also considered the question of whether to use the circumstances of the alleged offense or the conviction offense only in determining offense seriousness for sentencing guidelines purposes. The federal guidelines allow consideration of the circumstances of the alleged offense in determining seriousness - i.e., the practice of so-called "real offense" sentencing. The commission has determined to limit consideration to **offense of conviction** in assessing offense seriousness for guideline application purposes.

Third, the commission decided to focus on the **"typical" offense** in an offense category in ranking and classifying seriousness and in setting guideline ranges. Under indeterminate sentencing, the focus has been on the extremes - e.g., the maximum sentence accommodates the "worst case" - with little guidance for sentencing the typical case. The guidelines will provide a target sentencing range for the typical case, leaving adequate discretion for sentencing beyond the range in atypical cases.

Fourth, the commission determined to strive for **simplicity** in classifying offense seriousness and developing sentencing guidelines, based on the premise that the guidelines should be easy to understand and straightforward to apply, and that sentencing values and policies should be apparent in the guidelines that are promulgated.

Criminal History. Two models for measuring criminal history emerged from a review of grid-type sentencing guidelines in other jurisdictions - a "numerical" model and a "type of offender" model.

"Numerical" model. Under the "numerical" model, criminal history scores are calculated which measure the number and seriousness of prior convictions. Prior convictions are typically weighted according to their severity, and the weighted scores for each conviction are summed to derive the offender's criminal history score. Cut-off points are used to establish criminal history categories of increasing seriousness - typically ranging from five to ten categories.

"Type of offender" model. Under the "type of offender" model, the criminal history categories do not depend so much on numerical scores or mathematical calculations, but, rather, focus on distinguishing among different types of offenders - e.g., repeat violent offenders, repeat non-violent felony offenders, minor offenders.

The commission decided upon the **type of offender model** for classifying criminal history. This model is more consistent with the principle of simplicity in developing sentencing guidelines. It also provides more "homogeneous" criminal history categories with respect to

types of offenders, thereby allowing for more "descriptive" categories - e.g., repeat violent offenders - and for targeting of certain offender types for particular sanctions.

With respect to the repeat violent and other serious offenders, there is a consensus that the target sentences and sentencing ranges should escalate more sharply as these offenders reach the more serious criminal history categories on the sentencing grid. The commission refers to this approach as the so-called "parabolic" effect.

Thus, the grid-type model which the commission has adopted is based on a matrix with offenses classified on the vertical axis according to seriousness and criminal history classified on the horizontal axis according to severity. Within each cell in the matrix, the commission will establish a target sentence. Then, the statute calls for a sentencing range of plus and minus 20% of the target sentence for each cell on the grid where the target sentence is two years or greater - e.g., if the target sentence is 10 years for a particular offense at a given category of criminal history, the sentencing range would be 8-12 years. Ordinarily, a judge would impose a sentence within the range, but where there are unusual aggravating or mitigating circumstances, the judge may depart from the range with the requirement that the judge set forth in writing the reasons for departure. An illustration of the sentencing guidelines grid that has been adopted by the commission is presented in Attachment B.

The commission has completed its initial ranking of the crimes in M.G.L. ch. 265 (which includes serious crimes against the person) and ch. 266 (many crimes against property), along with drug crimes, gun crimes, OUI, and motor vehicle crimes. As an illustration, the offense seriousness categories that emerged from the ranking of the crimes vs. person under ch. 265 and the crimes vs. property under ch. 266 are presented in Attachment E.

The critical process of establishing the target sentences and the sentencing ranges on the grid has begun. Under the prescriptive approach, commission members have independently indicated what they consider to be the appropriate time to serve for each cell on the offense/criminal history grid. They have also indicated which cells are appropriate to encompass intermediate sanctions. Preliminary empirical data on existing sentencing practices and time served are becoming available as a frame of reference for setting target sentences. Thus, when the commission held its two-day session in August to work on the formulation of policy statements relating to the guidelines and to begin to insert target sentences and sentencing ranges into the grid, substantial progress was made.

Intermediate Sanctions

The truth in sentencing statute directs the Sentencing Commission to conduct a study of intermediate sanctions and to submit a report to the Legislature with a plan for the development, implementation, administration, and funding of intermediate sanctions. In approaching this initiative the commission will ensure that intermediate sanctions are integrated into the sentencing options set forth in the sentencing guidelines.

As directed by chapter 432, an Intermediate Sanctions Committee has been established, which includes representatives of the Executive Office of Health and Human Services, the Executive Office of Public Safety, and the Administrative Office of the Trial Court, in addition to members of the Sentencing Commission. This committee has begun work in this area by developing a mission statement and identifying a set of tasks to be accomplished. The committee has also designed a two-phased approach for compiling an inventory of existing intermediate sanction programs. As the first step, the committee has prepared a survey questionnaire and distributed it to 180 sites - e.g., probation offices, parole offices, Sheriffs' Departments, Department of Correction, and private vendors - where intermediate sanctions or community correctional programs may be in use. Responses have been received and compiled. The committee is presently following up with a more detailed data gathering effort with selected programs. This research effort is generating some systematic data on intermediate sanctions to serve as a basis for the commission's report to the legislature on intermediate sanctions.

The Intermediate Sanctions Committee also conducted site visits to intermediate sanction programs. For example, a meeting of the committee was held in Hampden County in March, 1995, in order to gain some first-hand insights on the day reporting program, the DUI program, and the pre-release program, administered by Sheriff Michael Ashe, and on the Hampden County Criminal Justice Collaborative Program being administered as a joint enterprise of the District Court, the District Attorney's Office, the Springfield District Court Probation Department, and the Sheriff's Department. A site visit was also made to the Metropolitan Day Reporting Center in Boston, operated by the Crime and Justice Foundation.

The Sentencing Commission has adopted certain policies which were intended to effect the integration of intermediate sanctions into the sentencing guidelines. For example, the commission has incorporated three "zones" into the sentencing guidelines grid - an incarceration zone, where the sentencing ranges would call for a period of incarceration; an intermediate sanctions zone, where the sentencing ranges would call for an intermediate sanction; and, a discretionary zone, where the sentencing range would include both a period of incarceration and an intermediate sanction option to be selected at the discretion of the judge. (These three zones are depicted in the illustrative sentencing guidelines grid in Attachment B.) The commission has

also decided to adopt the notion of a continuum of intermediate sanctions, based on the severity of the punishment or the constraints on personal liberty associated with the sanction. In this regard, the commission has identified four levels of intermediate sanctions, ranging from administrative probation with minimal supervision at the lowest level to residential or intensive supervision programs at the highest levels. The four levels of intermediate sanctions have also been integrated into the grid, such that the sentencing range for offenders at the more serious end of the offense/criminal history cells in the discretionary zone encompass Level II, III and IV intermediate sanctions, while the sentencing range for offenders at the less serious end of the offense/criminal history cells in the discretionary zone encompass only Level I, II, and III intermediate sanctions.

Further details on the status of the work of the Intermediate Sanctions Committee may be found in the forthcoming interim report of that committee.

Administrative Issues

After the appointment of its members in the spring of 1994, the commission had several administrative tasks to address, such as hiring staff, securing and furnishing office space, and establishing a structure for achieving the mandates of chapter 432.

Staff. The process of hiring staff commenced in late summer and culminated in the hiring of an executive director and research director in December, 1994. In May, 1995, two additional staff were added - a research analyst and an executive assistant - to round out the funded staff complement. Two student interns from the Northeastern University criminal justice program have also been on board since April, 1994. A programming consultant worked with commission staff during April-June, 1995, to develop the software necessary to analyze the court disposition data in the automated files of the Office of the Commissioner of Probation.

Office Space. As office space was at a premium in the government center area, it was difficult to identify and secure a permanent office for the commission. However, through the efforts of the Governor's Chief Legal Counsel and Division of Capital Planning and Operations (DCPO), space was identified in the Saltonstall Building and was refurbished for commission use. Commission staff moved into this space in May, 1995. In the interim, the Chief Justice for Administration and Management graciously provided temporary quarters and administrative support for commission staff. Also, the Boston Bar Association was most generous in making available its conference room for monthly meetings of the Sentencing Commission until permanent space was acquired.

Budget. The Legislature provided the Sentencing Commission with a budget of $250,000 for FY95. This funding supported start-up operations and the hiring of a four-person staff, along

with funding student interns and the services of a technical consultant. However, a commission budget request for $396,000 for FY96, based primarily on an annualization the FY95 budget, did not meet with legislative approval. Instead, the commission was level funded for FY96. This posed some fiscal constraints, necessitating the termination of the student interns, who have been making a significant contribution to the work of the commission, and the curtailment of important technical consulting services that would have greatly facilitated the accomplishment of the empirical research mandates to the commission.

Reporting Deadline. Chapter 432 required the Sentencing Commission to submit the sentencing guidelines and the report on intermediate sanctions to the Legislature within twelve months after the effective date of the act or, by April 11, 1995. However, the aforementioned delays in hiring staff and acquiring office space, along with the sheer magnitude of the mandates to the commission under ch. 432, rendered it impossible for this deadline to be met. Accordingly, the commission sought legislation to amend ch. 432 to extend the reporting deadlines to April 11, 1996. This legislation is still pending in the House of Representatives.

V. Next Steps

Public Hearings. The Sentencing Commission is planning to schedule public hearings on sentencing guidelines and intermediate sanctions in the near future. In anticipation of these public hearings, the commission will be completing the following tasks:

Outreach

- Provide a summary of the highlights of the points made at the focus group meetings.

Research

- Complete studies of existing sentencing practices and time currently being served as a framework for developing sentencing guidelines and reporting on intermediate sanctions.
- Continue work on population projection methodology to be prepared to assess the impact of proposed sentencing guidelines on the correctional population.

Legislation

- Complete the work of ranking the 4,000 offenses into the offense seriousness categories.

- Complete the work of plugging in the target sentences and sentencing ranges into the cells on the sentencing grid.
- Complete the formulation of policy statements for use in interpreting the sentencing guidelines.

Intermediate Sanctions

- Complete the inventory of existing intermediate sanction programs.
- Complete the work of integrating intermediate sanctions with sentencing guidelines on the sentencing grid.
- Complete the report to the Legislature on intermediate sanctions.

Final Report. The commission will carefully consider the comments and recommendations that are presented at the public hearings in the process of formulating its final reports on the sentencing guidelines and intermediate sanctions. The target time for the submission of these final reports to the Legislature is the Winter, 1996.

This interim report is intended to provide a summary of work in progress by the Sentencing Commission. The commission welcomes comments and suggestions regarding the direction of its work on sentencing guidelines and intermediate sanctions.

Attachments

Attachment A. Massachusetts Sentencing Commission Members and Designees

Commission Members

Judges

Honorable Robert A. Mulligan, Chair
Chief Justice, Superior Court

Honorable Margaret R. Hinkle
Associate Justice, Superior Court

Honorable Mark H. Summerville
Associate Justice, Boston Municipal Court

Prosecutors

R. Jack Cinquegrana, Esq.
Suffolk County District Attorney's Office

S. Jane Haggerty, Esq.
Essex County District Attorney's Office

Pamela L. Hunt, Esq.
Office of the Attorney General

Defense

Michael J. Traft. Esq.,
Private Attorney, Boston

William Robinson, Esq.
Committee for Public Counsel Services

Thomas G. Murray, Esq.
Private Attorney, Boston

Sheriffs Association

Cathleen E. Campbell, Esq., Counsel
Suffolk County Sheriff's Department
(June, 1994 - May, 1995)

Mariellen Fidrych, Executive Director
MA Sheriff's Association
(June, 1995 - Present)

Parole Board

Sheila A. Hubbard, Esq.
Chair, Parole Board

Public Safety

John F. Flynn, Esq.
Executive Office of Public Safety

Victim Assistance Board

Maria F. Rodriguez, Esq.
Director of Victim's Services
Hampden County District Attorney's Office

Department of Correction

David Slade, Esq.
Office of the General Counsel
Department of Correction

Probation

Donald Cochran, Commissioner
Office of the Commissioner of Probation

District Court Liaison to Sentencing Commission

Honorable Timothy Gailey
Lynn District Court

Special Designees to Intermediate Sanctions Committee

Chief Justice for Administration and Management of the Trial Court Designee

Donald Moran, Supervisor
Chief Probation Services

Secretary of Health and Human Services Designee

William O'Leary, Commissioner
Department of Youth Services

Secretary of Public Safety Designee

John Flynn, General Counsel
Executive Office of Public Safety

Staff

Francis J. Carney, Jr.
Executive Director

Linda K. Holt
Research Director

Lee Kimball
Research Analyst

Clare Duffy
Executive Assistant

Attachment B. Illustrative Sentencing Guidelines Grid

Level	Illustrative Offense	Target Sentence					
9	Murder						
8	Rape of Child with Force Aggravated Rape Armed Burglary						
7	Kidnapping for Extortion Rape Arson/Dwelling						
6	Assault with Intent Rape A&B w/DW - significant injury						
5	Unarmed Robbery A&B w/DW - moderate injury Burglary/Unarmed						
4	Attempted Extortion A&B w/DW - minor injury Larceny from person						
3	A&B Larceny $250 to $10,000						
2	Assault Vandalism						
1	Poss. of Hypodermic Use Motor Vehicle w/o Authority						
	Criminal History Scale	A	B	C	D	E	F

Criminal History Groups

F — **Repeat Violent Offender**
Two or more prior convictions for felonies in levels 7 through 9

E — **Serious Violent Felon**
One prior conviction for felonies in levels 7 through 9 OR
Three or more prior convictions for felonies in levels 4 through 6

D — **Serious Felon**
One or two prior convictions for felonies in levels 4 through 6 OR
Five or more prior convictions for felonies in levels 1 through 3 OR
Five or more prior convictions for person misdemeanors

C — **Non-Violent Felon**
One to four prior convictions for felonies in levels 1 through 3 OR
One to four prior convictions for person misdemeanors

B — **Minor Record**
One or more prior convictions for non-person misdemeanors

A — **No Record**
No prior convictions of any kind

Sentencing Zones

Incarceration Only Zone

Discretionary Zone
(Incarceration/Intermediate Sanction)

Intermediate Sanction Zone

Attachment C. Summary Listing of Focus Group Meetings

Victims Group - Rape and Domestic Violence - Boston Region
Victims Group - Homicide Survivors / Western Massachusetts
Victims Group - Homicide Survivors / Eastern Massachusetts
Victims Group - Mothers Against Drunk Driving
Victims Group - Rape and Domestic Violence - Springfield Region
Victims Group - Rape and Domestic Violence - New Bedford Region

Defense Counsel - Lowell Region
Defense Counsel - Springfield Region
Defense Counsel - New Bedford Region
Defense Counsel - Boston Region
Defense Counsel - Worcester Region

Prosecutors - Lowell Region
Prosecutors - Springfield Region
Prosecutors - New Bedford Region
Prosecutors - Boston Region
Prosecutors - Worcester Region

Massachusetts Sheriffs Association
Chiefs of Police Association
Chief Probation Officers
Massachusetts Parole Board
Department of Correction
Inmate Legal Services
Massachusetts Judges Conference
Massachusetts Association of Sentencing Services
Council for Public Justice / Crime and Justice Foundation
Domestic Violence Working Group of the Trial Court

Attachment D. Sample Research Statistics

Survey of Sentencing Practices

Sample: Convictions for A&B with Dangerous Weapon during the period April 1, 1994, through June 30, 1994

Type of Sentence Imposed	Number	Percent
Fine Only	10	(1%)
Probation	489	(45%)
House of Correction	206	(19%)
Department of Correction	95	(9%)
Split1	207	(19%)
Other2	77	(7%)
Total Convictions	1,094	(100%)

Mean Sentence Length Imposed	Number	Mean
Fine Only	10	$858.00
House of Correction	201	12.3 Months
Department of Correction - Reformatory	2	60.0 Months
Department of Correction - Prison3	93	65.1 Months
Split4	203	11.0 Months

Survey of Time Served

Sample: Individuals released from Department of Correction and sample houses of correction during the period calendar year 1992 and calendar year 1993 whose governing offense was A&B with dangerous weapon.5

Jurisdiction	Number	Mean
Department of Correction	158	33.9 Months
Sample Houses of Correction	264	6.8 Months

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1 Split sentence category includes both house of correction and state split sentences.
2 Sentences in the other category include dispositions such as "Guilty - Filed".
3 Minimum sentence length is reported for Department of Correction - Prison sentences.
4 For split sentences, the committed portion of the sentence is reported.
5 Includes first releases via parole, discharge, expiration of sentence on simple/concurrent sentences; releases on fine sentences, split sentences (where known), and aggregated sentences were excluded.

Attachment E. Illustrative Ranking of Crimes vs. Person and Crimes vs. Property

Level	MGL Reference	Offense Literal	Staircase Factor	Max H/C	Max Prison
9	265/1	MURDER c265 §1			Life
8	265/13	MANSLAUGHTER c265 §13	Voluntary	2-1/2 years	20 years
8	265/13	MANSLAUGHTER INVOLVING EXPLOSIVES c265 §13			Life
8	**265/17**	**ROBBERY, ARMED & MASKED, SUBSQ.OFF. c265 §17**			**Life**
8	**265/18(a)**	**ASSAULT TO MURDER +65, ARMED, SUBSQ.OFF. c265 §18**			**20 years**
8	265/18A	ASSAULT IN DWELLING, ARMED c265 §18A			20 years
8	**265/18C**	**HOME INVASION, SUBSQ.OFF. c265 §18C**			**Life**
8	265/18C	HOME INVASION c265 §18C			Life
8	265/22(a)	RAPE, AGGRAVATED c265 §22			Life
8	**265/22(a)**	**RAPE, AGGRAVATED, SUBSQ.OFF. c265 §22**			**Life**
8	**265/22(b)**	**RAPE, SUBSQ.OFF. c265 §22**			**Life**
8	**265/22A**	**RAPE OF CHILD WITH FORCE, SUBSQ.OFF. c265 §22A**			**Life**
8	265/22A	RAPE OF CHILD WITH FORCE c265 §22A			Life
8	**265/24B**	**ASSAULT TO RAPE CHILD, SUBSQ.OFF. c265 §24B**			**Life**
8	266/14	BURGLARY, ARMED c266 §14			Life
7	**265/13B**	**INDECENT A&B ON CHILD UNDER 14, SUBSQ. c265 §13B**			**Life**
7	**265/13F**	**INDECENT A&B ON RETARDED PERSON, SUBSQ. c265 §13F**			**Life**
7	265/13J	A&B ON CHILD WITH SUBSTANTIAL INJURY c265 §13J		2-1/2 years	15 years
7	265/16	MURDER, ATTEMPTED c265 §16		2-1/2 years	20 years
7	265/17	ROBBERY, ARMED & MASKED c265 §17	Display of Gun		Life
7	265/17	ROBBERY, ARMED c265 s17	Display of Gun		Life
7	265/18(a)	ASSAULT TO MURDER +65, ARMED c265 §18			Life

Note: Offenses in bold type are elevated one level due to subsequent conviction designation.

Attachment E. Illustrative Ranking of Crimes vs. Person and Crimes vs. Property

Level	MGL Reference	Offense Literal	Staircase Factor	Max H/C	Max Prison
7	265/18(b)	ASSAULT TO MURDER, ARMED c265 §18			20 years
7	**265/18(a)**	**ASSAULT TO ROB +65, ARMED, SUBSQ.OFF. c265 §18**			**20 years**
7	**265/19(a)**	**ROBBERY +65, UNARMED, SUBSQ.OFF. c265 §19**			**Life**
7	265/21	INTIMIDATE TO STEAL FROM DEPOSITORY c265 §21			Life
7	265/21	INTIMIDATE TO STEAL FROM DEPOSITORY, ATT c265 §21			Life
7	265/22(b)	RAPE c265 §22			20 years
7	**265/23**	**RAPE OF CHILD, STATUTORY, SUBSQ.OFF. c265 §23**			**Life**
7	**265/24**	**ASSAULT TO RAPE, SUBSQ.OFF. c265 §24**			**Life**
7	265/24B	ASSAULT TO RAPE CHILD c265 §24B			Life
7	265/26	KIDNAPPING FOR EXTORTION c265 §26			Life
7	265/28	POISONING, ATTEMPTED c265 §28			Life
7	266/1	ARSON OF DWELLING HOUSE c266 §1		2-1/2 Years	20 Years
7	266/101	EXPLOSION, MALICIOUS c266 §101		2-1/2 Years	20 Years
7	266/102	EXPLOSIVES, THROW/PLACE/EXPLODE c266 §102		2-1/2 Years	20 Years
7	266/102	EXPLOSIVES, POSSESS TO INJURE c266 §102		2-1/2 Years	20 Years
6	265/13	MANSLAUGHTER c265 §13	Involuntary	2-1/2 years	20 years
6	265/13B	INDECENT A&B ON CHILD UNDER 14 c265 §13B	Aggravating Factors	2-1/2 years	10 years
6	265/13F	INDECENT A&B ON RETARDED PERSON c265 §13F			10 years
6	265/14	MAYHEM c265 §14		2-1/2 years	20 years
6	265/15	ASSAULT TO MURDER c265 §15		2-1/2 years	10 years
6	265/15	ASSAULT TO MAIM c265 §15		2-1/2 years	10 years
6	**265/15A(a)**	**A&B WITH DANGEROUS WEAPON +65, SUBSQ.OFF c265 §15A**		**2-1/2 years**	**10 years**
6	265/15A(b)	A&B WITH DANGEROUS WEAPON c265 §15A	Significant Injury	2-1/2 years	10 years
6	265/15A(a)	A&B WITH DANGEROUS WEAPON +65 c265 §15A	Significant Injury	2-1/2 years	10 years
6	265/17	ROBBERY, ARMED & MASKED c265 §17			Life
6	265/17	ROBBERY, ARMED c265 s17			Life
6	265/18(b)	ASSAULT TO ROB, ARMED c265 §18			20 years

Note: Offenses in bold type are elevated one level due to subsequent conviction designation.

Attachment E. Illustrative Ranking of Crimes vs. Person and Crimes vs. Property

Level	MGL Reference	Offense Literal	Staircase Factor	Max H/C	Max Prison
6	265/18(a)	ASSAULT TO ROB +65, ARMED c265 §18			20 years
6	265/19(a)	ROBBERY +65, UNARMED c265 §19			Life
6	265/21A	CARJACKING c265 §21A		2-1/2 years	15 years
6	265/23	RAPE OF CHILD, STATUTORY c265 §23		2-1/2 years	Life
6	265/24	ASSAULT TO RAPE c265 §24			20 years
6	265/26	KIDNAPPING c265 §26			10 years
6	265/37	CIVIL RIGHTS VIOLATION WITH BODILY INJURY c265 §37			10 years
6	**265/43(c)**	**STALKING, SUBSQ.OFF. c265 §43**			**10 years**
6	**265/43(c)**	**STALKING IN VIOL OF RESTRAINING ORDER,2D c265 §43**			**10 years**
6	266/102A	INFERNAL MACHINE, POSSESS c266 §102A		2-1/2 Years	10 Years
5	265/13B	INDECENT A&B ON CHILD UNDER 14 c265 §13B	Aggravating Factors	2-1/2 years	10 years
5	**265/13C**	**A&B TO COLLECT LOAN, SUBSQ.OFF. c265 §13C**			**10 years**
5	**265/13F**	**A&B ON RETARDED PERSON, SUBSQ.OFF. c265 §13F**			**10 years**
5	265/13J	A&B ON CHILD WITH INJURY c265 §13J		2-1/2 years	5 years
5	265/13J	CHILD, PERMIT SUBSTANTIAL INJURY TO c265 §13J		2-1/2 years	5 years
5	265/15A(b)	A&B WITH DANGEROUS WEAPON c265 §15A	Moderate Injury	2-1/2 years	10 years
5	265/15A(a)	A&B WITH DANGEROUS WEAPON +65 c265 §15A	Moderate Injury	2-1/2 years	10 years
5	**265/15B(a)**	**ASSAULT W/DANGEROUS WEAPON +65, SUBSQ. c265 §15B**		**2-1/2 years**	**5 years**
5	**265/18B**	**FIREARM USE IN FELONY, SUBSQ.OFF. c265 §18B**			**5 years**
5	265/19(b)	ROBBERY, UNARMED c265 §19			Life
5	265/43(a)	STALKING c265 §43		2-1/2 years	5 years
5	265/43(b)	STALKING IN VIOL OF RESTRAINING ORDER c265 §43			5 years
5	266/2	BURN BUILDING c266 §2		2-1/2 Years	10 Years
5	266/15	BURGLARY, UNARMED c266 §15			20 Years
5	266/16	B&E NIGHTTIME FOR FELONY c266 §16		2-1/2 Years	20 Years
5	266/17	ENTER AT NIGHT FOR FELONY,PERSON IN FEAR c266 §17			10 Years

Note: Offenses in bold type are elevated one level due to subsequent conviction designation.

Attachment E. Illustrative Ranking of Crimes vs. Person and Crimes vs. Property

Level	MGL Reference	Offense Literal	Staircase Factor	Max H/C	Max Prison
5	266/17	B&E DAYTIME FOR FELONY, PERSON IN FEAR c266 §17			10 Years
5	266/18	ENTER DWELLING AT NIGHT FOR FELONY c266 §18		2 Years	10 Years
5	266/18	B&E DAYTIME FOR FELONY c266 §18		2 Years	10 Years
5	266/20	LARCENY FROM BUILDING c266 §20	$50,000 and over	2 Years	5 Years
5	266/23	FIRE, LARCENY AT c266 §23-§24	$50,000 and over	2 Years	5 Years
5	266/27A	MOTOR VEH TO DEFRAUD, REMOVE c266 §27A	$50,000 and over	2-1/2 Years	5 Years
5	266/28	MOTOR VEH, LARCENY OF c266 §28	$50,000 and over	2-1/2 Years	15 Years
5	266/30	LARCENY OVER $250 c266 §30	$50,000 and over	2 Years	5 Years
5	266/32	LARCENY OVER $250 BY BOAT CAPTAIN c266 §32	$50,000 and over		5 Years
5	266/34	LARCENY OVER $250 BY FALSE PRETENSE c266 §34	$50,000 and over		5 Years
5	266/37	LARCENY BY CHECK OVER $250 c266 §37	$50,000 and over		5 Years
5	266/37C	CREDIT CARD FRAUD OVER $250 c266 §37C	$50,000 and over	2-1/2 Years	5 Years
5	266/40	THIEF, COMMON & NOTORIOUS c266 §40		2-1/2 Years	20 Years
5	266/50	TREASURY EMPLOYEE, FRAUD BY c266 §50	$50,000 and over		Life
5	266/51	MUNICIPAL/COUNTY OFFCR, EMBEZZLEMENT BY c266 §51	$50,000 and over	2 Years	10 Years
5	266/52	BANK, EMBEZZLEMENT FROM c266 §52	$50,000 and over	2-1/2 Years	15 Years
5	266/56	BROKER, EMBEZZLEMENT BY c266 §56	$50,000 and over	2-1/2 Years	5 Years
5	266/57	FIDUCIARY, EMBEZZLEMENT/MISAPPLICATN BY c266 §57	$50,000 and over	2 Years	10 Years
5	266/58	ASSOCIATION OFFICER EMBEZZLE +$250 c266 §58	$50,000 and over	2 Years	5 Years
5	266/59	ASSOCIATION MEMBER EMBEZZLE +$250 c266 §59	$50,000 and over	2 Years	5 Years
5	266/60	RECEIVE STOLEN PROPERTY +$250 c266 §60	$50,000 and over	2-1/2 Years	5 Years
5	266/99A	LIBRARY MATERIALS OVER $250, LARCENY OF c266 §99A	$50,000 and over		5 Years
5	266/102B	MOLOTOV COCKTAIL, MAKE/SELL/USE/POSSESS c266 §102B			5 Years
4	265/13B	INDECENT A&B ON CHILD UNDER 14 c265 §13B	Aggravating Factors	2-1/2 years	10 years
4	265/13C	A&B TO COLLECT LOAN c265 §13C		2-1/2 years	5 years
4	265/13D 1/2	FIREFIGHTER, INJURE c265 §13D«		2-1/2 years	10 years
4	265/13F	A&B ON RETARDED PERSON c265 §13F		2-1/2 years	5 years
4	265/13G	FELONY FOR HIRE c265 §13G			5 years
4	265/13H	INDECENT A&B ON PERSON 14 OR OVER c265 §13H		2-1/2 years	5 years

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Attachment E. Illustrative Ranking of Crimes vs. Person and Crimes vs. Property

Level	MGL Reference	Offense Literal	Staircase Factor	Max H/C	Max Prison
4	265/13J	CHILD, PERMIT INJURY TO c265 §13J		2-1/2 years	
4	265/15A(b)	A&B WITH DANGEROUS WEAPON c265 §15A	Minor Injury	2-1/2 years	10 years
4	265/15A(a)	A&B WITH DANGEROUS WEAPON +65 c265 §15A	Minor Injury	2-1/2 years	10 years
4	265/15B(a)	ASSAULT W/DANGEROUS WEAPON +65 c265 §15B		2-1/2 years	5 years
4	265/15B(b)	ASSAULT W/DANGEROUS WEAPON c265 §15B		2-1/2 years	5 years
4	265/18B	FIREARM USE IN FELONY c265 §18B		2-1/2 years	5 years
4	265/20	ASSAULT TO ROB, UNARMED c265 §20			10 years
4	265/25	EXTORTION BY FALSE REPORT OF CRIME c265 §25			15 years
4	265/25	ATTEMPTED EXTORTION c265 §25			15 years
4	265/26A	KIDNAPPING & ENDANGER MINOR BY RELATIVE c265 §26A			5 years
4	265/29	ASSAULT TO COMMIT FELONY c265 §29			10 years
4	265/38	NURSING HOME PATIENT, ABUSE c265 §38		2 years	
4	265/39	A&B OR PROPERTY DAMAGE TO INTIMIDATE FOR RACE/RELIGION c265 §39		2-1/2 years	
4	266/5A	ARSON OF DWELLING HOUSE, ATTEMPTED c266 §5A		2-1/2 Years	10 Years
4	266/10	BURN BUILDING TO DEFRAUD INSURER c266 §10		2-1/2 Years	5 Years
4	266/12	FIREFIGHTING, OBSTRUCT c266 §12		2-1/2 Years	7 Years
4	266/20	LARCENY FROM BUILDING c266 §20	$10,000 to $50,000	2 Years	5 Years
4	266/23	FIRE, LARCENY AT c266 §23-§24	$10,000 to $50,000	2 Years	5 Years
4	266/25	LARCENY FROM PERSON c266 §25		2-1/2 Years	5 Years
4	266/25	LARCENY FROM PERSON +65 c266 §25		2-1/2 Years	5 Years
4	266/27A	MOTOR VEH TO DEFRAUD, REMOVE c266 §27A	$10,000 to $50,000	2-1/2 Years	5 Years
4	266/28	MOTOR VEH, LARCENY OF c266 §28	$10,000 to $50,000	2-1/2 Years	15 Years
4	266/30	LARCENY OVER $250 c266 §30	$10,000 to $50,000	2 Years	5 Years
4	266/32	LARCENY OVER $250 BY BOAT CAPTAIN c266 §32	$10,000 to $50,000		5 Years
4	266/34	LARCENY OVER $250 BY FALSE PRETENSE c266 §34	$10,000 to $50,000		5 Years
4	266/37	LARCENY BY CHECK OVER $250 c266 §37	$10,000 to $50,000		5 Years
4	266/37C	CREDIT CARD FRAUD OVER $250 c266 §37C	$10,000 to $50,000	2-1/2 Years	5 Years
4	266/50	TREASURY EMPLOYEE, FRAUD BY c266 §50	$10,000 to $50,000		Life
4	266/51	MUNICIPAL/COUNTY OFFCR, EMBEZZLEMENT BY c266 §51	$10,000 to $50,000	2 Years	10 Years
4	266/52	BANK, EMBEZZLEMENT FROM c266 §52	$10,000 to $50,000	2-1/2 Years	15 Years

Note: Offenses in bold type are elevated one level due to subsequent conviction designation.

Attachment E. Illustrative Ranking of Crimes vs. Person and Crimes vs. Property

Level	MGL Reference	Offense Literal	Staircase Factor	Max H/C	Max Prison
4	266/56	BROKER, EMBEZZLEMENT BY c266 §56	$10,000 to $50,000	2-1/2 Years	5 Years
4	266/57	FIDUCIARY, EMBEZZLEMENT/MISAPPLICATN BY c266 §57	$10,000 to $50,000	2 Years	10 Years
4	266/58	ASSOCIATION OFFICER EMBEZZLE +$250 c266 §58	$10,000 to $50,000	2 Years	5 Years
4	266/59	ASSOCIATION MEMBER EMBEZZLE +$250 c266 §59	$10,000 to $50,000	2 Years	5 Years
4	266/60	RECEIVE STOLEN PROPERTY +$250 c266 §60	$10,000 to $50,000	2-1/2 Years	5 Years
4	266/99A	LIBRARY MATERIALS OVER $250, LARCENY OF c266 §99A	$10,000 to $50,000		5 Years
3	265/9	FIGHT BY ARRANGEMENT c265 §9			10 years
3	265/10	FIGHT BY ARRANGEMENT, AID/PROMOTE c265 §10		2-1/2 years	5 years
3	265/11	FIGHT BY ARRANGEMENT, OUT-OF-STATE c265 §11			5 years
3	265/13A	A&B c265 §13A		2-1/2 years	
3	265/13D	A&B ON PUBLIC EMPLOYEE c265 §13D		2-1/2 years	
3	265/13I	A&B ON AMBULANCE PERSONNEL c265 §13I		2-1/2 years	
3	265/15A(b)	A&B WITH DANGEROUS WEAPON c265 §15A	No Injury	2-1/2 years	10 years
3	265/15A(a)	A&B WITH DANGEROUS WEAPON +65 c265 §15A	No Injury	2-1/2 years	10 years
3	265/26A	KIDNAPPING MINOR BY RELATIVE c265 §26A		1 year	
3	265/37	CIVIL RIGHTS VIOLATION c265 §37		1 year	
3	265/40	PHYSICAL EXERCISE PROGRAM, INJURY IN c265 §40		2-1/2 years	
3	266/5	BURN PERSONALTY c266 §5		1 Year	3 Years
3	266/19	RAILROAD CAR, B&E FOR FELONY c266 §19		2 Years	10 Years
3	266/20	LARCENY FROM BUILDING c266 §20	Under $10,000	2 Years	5 Years
3	266/20A	TRUCK, B&E FOR FELONY c266 §20A		2 Years	10 Years
3	266/20B	TRUCK, LARCENY FROM c266 §20B		2 Years	5 Years
3	266/23	FIRE, LARCENY AT c266 §23-§24	Under $10,000	2 Years	5 Years
3	266/27A	MOTOR VEH TO DEFRAUD, REMOVE c266 §27A	Under $10,000	2-1/2 Years	5 Years
3	266/28	MOTOR VEH, LARCENY OF c266 §28	Under $10,000	2-1/2 Years	15 Years
3	266/30	LARCENY OVER $250 c266 §30	Under $10,000	2 Years	5 Years
3	266/31	SIGNATURE, OBTAINING BY FALSE PRETENSE c266 §31		2 Years	10 Years
3	266/32	LARCENY OVER $250 BY BOAT CAPTAIN c266 §32	Under $10,000		5 Years

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Attachment E. Illustrative Ranking of Crimes vs. Person and Crimes vs. Property

Level	MGL Reference	Offense Literal	Staircase Factor	Max H/C	Max Prison
3	266/33	FALSE PRETENSE IN COMMER TRANSACTN +$250 c266 §33			5 Years
3	266/34	LARCENY OVER $250 BY FALSE PRETENSE c266 §34	Under $10,000		5 Years
3	266/37	LARCENY BY CHECK OVER $250 c266 §37	Under $10,000		5 Years
3	266/37C	CREDIT CARD FRAUD OVER $250 c266 §37C	Under $10,000	2-1/2 Years	5 Years
3	266/38	C.O.D. CARRIER, LARCENY OVER $250 BY c266 §38		2 Years	5 Years
3	266/39	WILL, STEAL/DESTROY/CONCEAL c266 §39		2 Years	5 Years
3	266/42	BANK BILL PAPER, LARCENY OF c266 §42			Life
3	266/43	BANK BILL PAPER, PRINTER RETAIN c266 §43			Life
3	266/49	BURGLARIOUS INSTRUMENT, MAKE c266 §49		2-1/2 Years	10 Years
3	266/50	TREASURY EMPLOYEE, FRAUD BY c266 §50	Under $10,000		Life
3	266/51	MUNICIPAL/COUNTY OFFCR, EMBEZZLEMENT BY c266 §51	Under $10,000	2 Years	10 Years
3	266/52	BANK, EMBEZZLEMENT FROM c266 §52	Under $10,000	2-1/2 Years	15 Years
3	266/53A	BANK OFFICER/EMPLOYEE, MISCONDUCT BY c266 §53A		2-1/2 Years	10 Years
3	266/55	RECEIVER, EMBEZZLEMENT/MISAPPLICATION BY c266 §55		2 Years	10 Years
3	266/56	BROKER, EMBEZZLEMENT BY c266 §56	Under $10,000	2-1/2 Years	5 Years
3	266/57	FIDUCIARY, EMBEZZLEMENT/MISAPPLICATN BY c266 §57	Under $10,000	2 Years	10 Years
3	266/58	ASSOCIATION OFFICER EMBEZZLE +$250 c266 §58	Under $10,000	2 Years	5 Years
3	266/59	ASSOCIATION MEMBER EMBEZZLE +$250 c266 §59	Under $10,000	2 Years	5 Years
3	266/60	RECEIVE STOLEN PROPERTY +$250 c266 §60	Under $10,000	2-1/2 Years	5 Years
3	266/60A	TRADE SECRET, BUY/SELL/RECEIVE STOLEN c266 §60A		2 Years	5 Years
3	266/62	RECEIVER, COMMON c266 §62			10 Years
3	266/65	CORPORATE STOCK, UNAUTHORIZED ISSUE OF c266 §65		1 Year	10 Years
3	266/66	CORPORATE STOCK, FALSE ISSUE/TRANSFER OF c266 §66		1 Year	10 Years
3	266/67	BOOKS, FALSIFY/OMIT ENTRY IN c266 §67		1 Year	10 Years
3	266/67A	PURCHASING VIOLATION, GOVERNMENT c266 §67A			5 Years
3	266/67B	FALSE CLAIM TO GOVERNMENT AGENCY c266 §67B			5 Years
3	266/67C	CONSTRUCTION RECORD, FALSE ENTRY IN COMM c266 §67C		2 Years	5 Years
3	266/73	FALSE PRETENSE OF TRADE, OBTAIN GOODS BY c266 §73		2 Years	5 Years
3	266/74	CORPORATE CREDIT/MONEY/PROPERTY, MISUSE c266 §74			10 Years
3	266/75	TRICK, OBTAIN PROPERTY OVER $250 BY c266 §75			5 Years
3	266/76	FRAUD/CHEAT, GROSS c266 §76		2 Years	10 Years

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Attachment E. Illustrative Ranking of Crimes vs. Person and Crimes vs. Property

Level	MGL Reference	Offense Literal	Staircase Factor	Max H/C	Max Prison
3	266/92	FINANCIAL STATEMENT, PUBLISH FALSE c266 §92			10 Years
3	266/99A	LIBRARY MATERIALS OVER $250, LARCENY OF c266 §99A	Under $10,000		5 Years
3	266/104B	RESEARCH ANIMALS, MALICIOUS INTERFERENCE c266 §104B		2-1/2 Years	10 Years
3	266/112	ANIMAL, KILL/MAIM/POISON c266 §112		1 Year	5 Years
3	266/127A	CHURCH/SYNAGOGUE, INJURY OVER $5000 TO c266 §127A			5 Years
3	266/139	MOTOR VEH WITH DEFACED VIN, SELL c266 §139			3 Years
3	266/143A	RECORDING, UNAUTHORIZED REPRODUCTION OF c266 §143A - Large Quantity			5 Years
3	266/143B	RECORDING OF LIVE PERFORMANCE, UNAUTH c266 §143B - Large Quantity			5 Years
3	266/143C	RECORDING W/OUT MFR NAME, MFR/SELL/RENT c266 §143C - Large Quantity			5 Years
2	265/12	BOXING MATCH, UNLAWFUL c265 §12		3 months	
2	265/13A	ASSAULT c265 §13A		2-1/2 years	
2	265/30	COMMON CARRIER'S GROSS NEGLIGENCE c265 §30		2-1/2 years	
2	265/35	PUBLIC WAY, THROW OBJECT ON c265 §35		1 year	
2	265/36	SPORTING EVENT, THROW OBJECT AT c265 §36		1 year	
2	266/21	STOLEN PROPERTY, REFUSE RETURN c266 §21		2 Years	5 Years
2	266/22	POULTRY, B&E OR ENTER TO STEAL c266 §22		2 Years	3 Years
2	266/81	ATTACHED LAND, CONVEY c266 §81		1 Year	3 Years
2	266/88	CONSIGNEE/FACTOR, CONVERSION BY c266 §88			5 Years
2	266/99A	LIBRARY RECORDS, VANDALIZE c266 §99A			5 Years
2	266/103	NOXIOUS/FILTHY SUBSTANCE, VANDALIZE WITH c266 §103		2-1/2 Years	5 Years
2	266/107	BRIDGE, INJURE c266 §107		2 Years	5 Years
2	266/108	BOAT, DESTROY c266 §108		2-1/2 Years	10 Years
2	266/109	BOAT, FIT OUT TO DESTROY c266 §109		2-1/2 Years	20 Years
2	266/110	BOAT INSURER, FALSE CARGO INVOICE TO c266 §110		2 Years	10 Years
2	266/111	BOAT INSURER, FALSE AFFIDAVIT TO c266 §111		2 Years	10 Years
2	266/111A	INSURANCE CLAIM, PRESENT FALSE c266 §111A			5 Years
2	266/126A	VANDALIZE PROPERTY c266 §126A		2 Years	3 Years
2	266/127	DESTRUCTION OF PROPERTY +$250, MALICIOUS c266 §127		2-1/2 Years	10 Years

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Attachment E. Illustrative Ranking of Crimes vs. Person and Crimes vs. Property

Level	MGL Reference	Offense Literal	Staircase Factor	Max H/C	Max Prison
2	266/129	PRISONER VANDALIZE PRISON PROPERTY c266 §129			3 Years
2	266/138	RESERVOIR/DAM/CANAL/MILL, VANDALIZE c266 §138		2 Years	5 Years
2	266/138A	IRRIGATION EQUIPMENT, VANDALIZE c266 §138A		2 Years	5 Years
2	266/139	MOTOR VEH VIN, REMOVE/ALTER c266 §139			3 Years
2	266/143A	RECORDING, UNAUTHORIZED REPRODUCTION OF c266 §143A - Medium Quantity		2 Years	
2	266/143B	RECORDING OF LIVE PERFORMANCE, UNAUTH c266 §143B - Medium Quantity		2 Years	
2	266/143C	RECORDING W/OUT MFR NAME, MFR/SELL/RENT c266 §143C - Medium Quantity		2 Years	
1	265/24C	VICTIM OF SEX OFFENSE, DISCLOSE NAME OF c265 §24C		Fine	
1	265/32	GLASS, THROW ON BEACH c265 §32		1 month	
1	265/32	GLASS, THROW ON PUBLIC WAY c265 §32		1 month	
1	265/34	TATTOOING c265 §34		1 year	
1	265/42	RADIO ON PUBLIC CONVEYANCE c265 §42		1 month	
1	266/143A	RECORDING, UNAUTHORIZED REPRODUCTION OF c266 §143A - Small Quantity		1 Year	
1	266/143B	RECORDING OF LIVE PERFORMANCE, UNAUTH c266 §143B - Small Quantity		1 Year	
1	266/143C	RECORDING W/OUT MFR NAME, MFR/SELL/RENT c266 §143C - Small Quantity		1 Year	

Note: Offenses in bold type are elevated one level due to subsequent conviction designation.

Attachment F. Summary Listings of Commission and Committee Meetings

MEETING NAME	DATE	LOCATION
Sentencing Commission:		
Commission Meeting	*June 29, 1994*	Boston Bar Association
Commission Meeting	*August 4, 1994*	Boston Bar Association
Commission Meeting	*September 7, 1994*	Boston Bar Association
Commission Meeting	*September, 28, 1994*	Boston Bar Association
Commission Meeting	*November 2, 1994*	Boston Bar Association
Commission Meeting	*December 7, 1994*	Boston Bar Association
Commission Meeting	*January 4, 1995*	Boston Bar Association
Commission Meeting	*February 1, 1995*	Boston Bar Association
Commission Meeting	*March 1, 1995*	Boston Bar Association
Commission Meeting	*April 1, 1995*	Boston Bar Association
Commission Meeting	*May 3, 1995*	Boston Bar Association
Commission Meeting	*June 7, 1995*	Saltonstall Building
Commission Meeting	*June 21, 1995*	Saltonstall Building
Commission Meeting	*July 12, 1995*	Saltonstall Building
Commission Meeting	*August 1, 1995*	Saltonstall Building
Commission Meeting	*August 2, 1995*	Saltonstall Building
Commission Meeting	*September 7, 1995*	Saltonstall Building
Commission Meeting	*September 27, 1995*	Saltonstall Building
Outreach and Education:		
Committee Meeting	*July 27, 1994*	Springfield, MA
Committee Meeting	*August 24, 1994*	Springfield, MA
Committee Meeting	*September 7, 1994*	Boston Bar Association
Committee Meeting	*September 28, 1994*	Boston Bar Association
Committee Meeting	*October 21, 1994*	Springfield, MA
Committee Meeting	*March 23, 1995*	Boston, MA
Committee Meeting	*May 8, 1995*	Springfield, MA
Research Committee:		
Committee Meeting	*May 31, 1995*	Saltonstall Building
Committee Meeting	*June 21, 1995*	Saltonstall Building
Legislation Committee:		
Committee Meeting	*December 21, 1994*	Trial Court 9th Fl.
Committee Meeting	*December 27, 1994*	Trial Court 9th Fl.
Committee Meeting	*January 12, 1995*	Trial Court 9th Fl.
Committee Meeting	*January 19, 1995*	Trial Court 9th Fl.
Committee Meeting	*January 26, 1995*	Trial Court 9th Fl.

Committee Meeting	*February 16, 1995*	Trial Court 9th Fl.
Committee Meeting	*February 23, 1995*	Trial Court 9th Fl.
Committee Meeting	*March 15, 1995*	Trial Court 9th Fl.
Committee Meeting	*March 30, 1995*	Trial Court 9th Fl.
Committee Meeting	*April 12, 1995*	Trial Court 9th Fl.
Committee Meeting	*May 4, 1995*	Trial Court 9th Fl.
Committee Meeting	*May 11*, 1995	Trial Court 9th Fl.
Committee Meeting	*June 14, 1995*	Saltonstall Building
Committee Meeting	*June 22, 1995*	Saltonstall Building
Committee Meeting	*July 6, 1995*	Saltonstall Building
Committee Meeting	*July 20, 1995*	Saltonstall Building
Committee Meeting	*August 15, 1995*	Saltonstall Building
Committee Meeting	*September 14, 1995*	Saltonstall Building
Committee Meeting	*September 21, 1995*	Saltonstall Building

Intermediate Sanctions Committee:

Committee Meeting	*October 25, 1994*	Office of the Attorney General
Committee Meeting	*November, 1994*	Office of the Attorney General
Committee Meeting	*January 19, 1995*	Trial Court 9th Fl.
Committee Meeting	*February 16, 1995*	Trial Court 9th Fl.
Site Visit	*March 22, 1995*	Hampden County
Committee Meeting	*March 29, 1995*	Trial Court 9th Fl.
Site Visit	*April 7, 1995*	Metro Day Reporting Center, Boston, MA
Committee Meeting	*May 10, 1995*	Trial Court 9th Fl.
Committee Meeting	*May 24, 1995*	Saltonstall Building
Committee Meeting	*June 22, 1995*	Saltonstall Building
Committee Meeting	*July 12, 1995*	Saltonstall Building
Committee Meeting	*July 20, 1995*	Saltonstall Building
Committee Meeting	*August 15,1995*	Saltonstall Building
Committee Meeting	*September 12, 1995*	Saltonstall Building

Administration and Finance Committee

Individual Committee Meeting Dates not Included

Personnel Committee

Individual Committee Meeting Dates not Included

Legislative Initiatives:

House 1726 Hearings	*February 15, 1995*	Judiciary Committe
Intermediate Sanctions Legislation	*June 23,1995*	Kennedy School
Extension Hearing	*June 26, 1995*	Judiciary Committe
Sub-Committee Meeting (H5309)	*August 8, 1995*	Saltonstall Building
Sub-Committee Meeting (H5309)	*August 15, 1995*	Saltonstall Building

Conferences and Training:

Annual District Court Judges Conference	*June, 1994*	Williamstown, MA	Seven Members
Truth in Sentencing Conference	*April 4, 1995*	Westfield State College	Judge Mulligan Maria Rodriquez Donald Moran
Victims Rights Conference	*April 25, 1995*	Boston, MA	Judge Mulligan William O'Leary Maria Rodriquez
COERS Training	*April 28, 1995*	Boston, MA	Frank Carney
IARCA Conferences Intermediate Sanctions	*May 2-4, 1995*	Ann Arbor, MI	Pam Hunt Judge Hinkle
LECC Conference	*June 2, 1995*	Leominster, MA	Pam Hunt
Malden Bar Association	*June 8, 1995*	Malden, MA	Judge Mulligan
D.A. Association Conference	*June 19, 1995*	Stockbridge, MA	Jane Haggerty Jack Cinquegrana
IARCA Conference Judicial Perspective Panel	*June 13, 1995*	Salve Regina Col., RI	Judge Mulligan
Ruffin Society Mandatory Sentencing Panel	*June 20, 1995*	Northeastern Univ.	William Robinson Frank Carney
National Conference of Sentencing Guidelines Commissions	*July 24 & 25, 1995*	Boston, MA	Full Commission and MSC Staff
Meeting with Kathleen Bogan Former Director of Oregon Sentencing Commission	*September 15, 1995*	Saltonstall Building	